

**RESOLUTION OF THE CITY OF
WHEATON, MINNESOTA**

To State

Its Resolution No. N/A entitled

“Business Subsidy Policy and Criteria”

Passed on April 29, 2004

RESOLVED by the City Council of the City of Wheaton, Minnesota (the “City”) that it shall adopt the following **Business Subsidy Policy and Criteria** (the “Policy”):

Preamble. Whenever the City invests public funds or agrees to voluntarily forfeit tax or other revenue that benefit private development projects, those projects should create the greatest number of FTE jobs that pay a living wage possible for the residents of the City and the surrounding region. City policy makers and economic development agents must keep the critical need for living wage FTE jobs the priority whenever public dollars are invested in a private business or development project.

Business Subsidy Public Purpose. The public purposes of this Policy shall be to accomplish the following on behalf of the City:

1. Enhance economic growth in this area;
2. Create high quality manufacturing job growth in this area; and
3. Retain high quality manufacturing jobs in this area.

This Policy is adopted in compliance with M.S. § 116J.994 Subd. 2. A copy of this Policy shall be submitted to the Minnesota Department of Employment and Economic Development (“DEED”) along with the first annual Business Subsidy Report (as hereinafter defined).

Principles of Business Subsidy Implementation. The City shall target its business subsidy assistance to businesses that demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees and to City residents, where applicable, by giving priority to those businesses over businesses that have not traditionally paid living wages.

The City shall focus its business subsidy assistance only to businesses which agree to comply with annual business subsidy reporting requirements as required by the JOBZ Statute (as hereinafter defined) and/or as required by the Business Subsidy Statute (as hereinafter defined).

All other things being equal and to the extent legally possible, the City shall give preferential treatment for business subsidies to business that engage in responsible labor relations defined as neutrality on union organizing.

Although the primary purpose of this Policy is the creation of living wage jobs, we cannot achieve our economic development goals without a trained and ready workforce and adequate childcare. The City shall commit to assist businesses to obtain trained and work-ready employees through the DEED Workforce Development Centers; MNSCU and other services; and to facilitate access to childcare.

The City agrees to require that a Qualified Business (as hereinafter defined) shall not compete with or displace local businesses currently operating within the City.

I. DEFINITIONS

“Authorized Business Subsidy Signatory” means the Mayor of the City, the person who is authorized by this Policy to execute Business Subsidy Agreements on behalf of the City.

“JOBZ Business Subsidy” means tax exemptions or tax credits available to a Qualified Business located in a Zone designated under the JOBZ Statute. JOBZ Business Subsidies shall include:

- Exemption from individual income taxes as provided under M.S. § 469.316;
- 2. Exemption from corporate franchise taxes as provided under M.S. § 469.317;
- 3. Exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in M.S. § 297A.68, subdivision 37;
- 4. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under M.S. § 297B.03;
- 5. Exemption from the property tax as provided in M.S. § 272.02, subdivision 64;
- 6. Exemption from the wind energy production tax under M.S. § 272.029, subdivision 7; and
- 7. The jobs credit allowed under M.S. § 469.318.

“Business Subsidy” means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy Statute. Business Subsidies may include, but are not limited to:

- 1. Loan;
- 2. Grant;
- 3. Tax abatement;
- 4. TIF or other tax reduction or deferral;
- 5. Guarantee of payment;
- 6. Contribution of property or infrastructure;
- 7. Preferential use of governmental facilities;
- 8. Land contribution; and
- 9. Other specified subsidy.

Business Subsidies do not include the following:

assistance of less than \$25,000.

- 2. assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location or similar general criteria;

3. public improvements to buildings or lands owned by the City that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
4. redevelopment property polluted by contaminants as defined in M.S. § 116J.552, subd. 3.
5. assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development;
6. assistance to provide job readiness and training services;
7. assistance for housing;
8. assistance for pollution control or abatement, including assistance for a TIF hazardous substances subdistrict;
9. assistance for energy conservation;
10. tax reductions resulting from conformity with federal tax law;
11. workers compensation and unemployment compensation;
12. benefits derived from regulation;
13. indirect benefits derived from assistance to educational institutions;
14. funds from bonds allocated under M.S., Chapter 474A refunding bonds and 501(c)(3) bonds;
15. assistance for collaboration between a Minnesota higher education institution and a business;
16. assistance for a tax increment financing soils condition district as defined under M.S.469.174, subd.19;
17. redevelopment when the Recipients or Qualified Business' investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
18. general changes in tax increment financing law and other general tax law changes of a principally technical nature;
19. federal assistance until the assistance has been repaid to and reinvested by the local governmental unit;
20. funds from dock or wharf bonds issued by a seaway port authority;
21. business loans or loan guarantees of \$75,000 or less;
22. federal loan funds provided through the U.S. Economic Development Administration; and
23. for the taxable year or for taxes payable during the year in which the requirements were not met.

"Business Subsidy Agreement" means a binding written agreement between the Qualified Business and the City complying with the requirements of the Business Subsidy Statute and containing such

other terms and conditions as may be negotiated between the Qualified Business and the Economic Development Agent on behalf of the City.

"Business Subsidy Report" means the report submitted by the City to DEED each year for each business receiving a Business Subsidy in the City. The report is submitted by the City in order to comply with M.S. § 116J.994 Subd. 7(b).

"Business Subsidy Statute" means M.S. §§ 116J.943 – 116J.995.

"Criteria" means the equitably applied, uniform standards by which the Economic Development Agent and the City base their decision to award any Business Subsidy to a private business or development project establishing a business and creating jobs in the Subzone within the City.

"Economic Development Agent" means the Wheaton Economic Development Authority which is hereby empowered to solicit, market, initiate and negotiate Business Subsidy Agreements on behalf of the City.

"JOBZ Statute" means M.S. §§ 469.310 - 469.320.

"Living Wage Job" shall mean a job which pays wages that total at least the rate of 110% of the current poverty level for a family of four.

"Operation Start Date" shall mean the date by which the Qualified Business begins its operations in the Subzone as evidenced by constructing a facility or relocating to an existing building in a facility and beginning revenue generating operations and/or hiring employees.

"Person" includes an individual, corporation, partnership, limited liability company, association or any other entity.

"Qualified Business" means a Person that carries on a trade or business at a place of business located within a Zone and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the criteria in this Policy; and shall also mean "Recipient" as defined by the Business Subsidy Statute. A Qualified Business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this Policy.

"Recipient" mean any business entity that receives a Business Subsidy and that has entered into a Business Subsidy Agreement with the City.

"Relocating Business" means a trade or business that ceases one or more operations or functions at another location in Minnesota that is not within a Zone and begins performing substantially the same operations or functions at a location in a Zone, or which reduces employment at another location in Minnesota which is not located within a Zone during a period starting one year before and ending one year after it begins operations in a Zone and its employees in the Zone are engaged in the same line of business as the employees at the location where it reduces employment. A Relocating Business does not include any business entity that is substantially similar in operation or ownership to the business entity seeking to be a Qualified Business under this Policy.

"Relocation Agreement" means a binding written agreement between a Relocating Business and the Commissioner of Employment and Economic Development (the "Commissioner") pledging that the Relocating Business shall either: (a) increase full-time or full-time equivalent employment in the first full year of operation within the Zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the Zone designation applies, or (b) make a capital investment in the property located within the Zone equivalent to 10% of

the gross revenues of operation that was relocated in the immediately preceding taxable year; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

“Subzone” means the parcel or parcels of land located with the boundaries of the City which are to receive certain JOBZ Business Subsidies under the JOBZ Statute. The Subzone is located with a Zone which has been designated by the Commissioner pursuant to the JOBZ Statute.

“Zone” means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the Commissioner under M.S. § 469.314.

II. BUSINESS SUBSIDY REQUIREMENTS. The City adopts the following business subsidy policies:

1. Any time the City provides a Business Subsidy to a Qualified Business or Recipient, that business is subject to the wage levels, job creation and other criteria set forth in this Policy and specified in the Business Subsidy Agreement entered into with the City. In the event of a conflict between the requirements of the Business Subsidy Statute and the JOBZ Statute, the requirements of the JOBZ Statute shall be controlling.
2. The Recipient, in the case of a quantifiable non-JOBZ Business Subsidy, shall create and retain such number of full-time Living Wage Jobs as may be required by the City as a condition to receiving such subsidy.
3. The Qualified Business, in the case of a JOBZ Business Subsidy that is non-quantifiable at the time of the Business Subsidy Agreement is executed, must create and retain for the duration of the Subzone, such number of FTE Living Wage Jobs as may be required by the City and set forth in the Business Subsidy Agreement or Relocation Agreement.
4. The Qualified Business shall be identified in the Business Subsidy Agreement as a:
 - a. Trade or business located in and operating in the Subzone at the time of Subzone designation; **OR**
 - b. New trade or business start-up located with the Subzone; **OR**
 - c. Business expanding in the Subzone which is a business that maintains its current operations in its current location and is expanding its operations and its payroll within the Subzone; **OR**
 - d. A business relocating from another state; **OR**
 - e. A business relocating from another Minnesota non-Zone location to the Subzone.
5. The City may deviate from wage and job criteria in Section II, by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED. In addition, the City may amend this Policy in its discretion from time to time.
6. The City shall have as a goal under this Policy the creation of FTE jobs for residents of the City and surrounding area.
7. The City hereby authorizes the Economic Development Agent to act as its representative for purposes of soliciting, marketing, initiating and negotiating Business Subsidy Agreements on its behalf. All Business Subsidy Agreements must first be approved by the Board of the Economic Development Agent. If a Business Subsidy Agreement is approved by the Board

of the Economic Development Agent, then such Agreement must be approved by the City Council of the City. After the City Council has approved a Business Subsidy Agreement, the Mayor of the City is authorized to sign the Agreement on behalf of the City.

8. To be eligible to receive a JOBZ Business Subsidy, a Qualified Business or Recipient must operate or propose to operate a trade or business in the Subzone which has manufacturing as its principal business activity. Notwithstanding the foregoing, such Qualified Business or Recipient may sell at retail from their manufacturing facility within the Subzone all or part of the products which they manufacture at such facility.
9. The Qualified Business or Recipient may not be in default in the payment or performance of any of its debts, liabilities or obligations to the City or the Economic Development Agent.
10. The Qualified Business or Recipient must meet all financial and development guidelines established by the City and/or Economic Development Agent from time to time for other loan programs, including guidelines for wages, benefits, job creation and land use.
11. The Qualified Business or Recipient may not have been turned down for other economic development programs sponsored, maintained or participated in by the Economic Development Agent from time to time.
12. The City shall require all businesses receiving a Business Subsidy to comply with the following:
 - a. The business shall attend a properly noticed public hearing shall be held by the City as provided by M.S. § 116J.994, when the value of the subsidy does or is expected to exceed \$100,000 from local sources. The purpose of the hearing shall be held to identify and define the criteria that the Qualified Business or Recipient shall meet in order to be eligible to receive a Business Subsidy or become a Qualified Business for purposes of the JOBZ Statute. The hearing shall specify the subsidy provided, public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the Qualified Business. As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date time and place of the hearing; and providing information about the Business Subsidy proposed, including a summary of the terms of the subsidy.
 - b. If the business is qualified to receive JOBZ Business Subsidy, that business shall agree to continue operations in the Subzone for the duration of the job zone term.
 - c. If the Qualified Business or Recipient is a Relocating Business, the business shall be required to enter into a Relocation Agreement with the Commissioner of DEED.
 - d. Each Qualified Business or Recipient must enter into a Business Subsidy Agreement with the City.
 - e. The business shall identify an Operation Start Date when business operations for the proposed Qualified Business are planned to begin in the Subzone.